IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.8654 OF 2004

Vishrambhai Chhaganbhai Patel and four others — Petitioners

versus

Union of India through General Manager, Western Railway — Respondent

Neville D. Deboo, adv. for petitioners.

Suresh Kumar, adv. for respondent.

CORAM : A.P.SHAH AND S.C.DHARMADHIKARI, JJ.

DATE : 21st December 2004

PC :

1. The petitioners challenge an order passed by the Railway Claims Tribunal, Mumbai dated 19th July 2004. They also seek relief of striking down rules and schedules in Railway Claims Tribunal (Procedure) Rules, 1989 relating to territorial jurisdiction. Petitioners are applicants in a compensation case which is filed u/s 124-A of Railways Act, 1989. They are heirs and legal representatives of deceased Champakbhai Vishrambhai Patel. It is their case in the application for compensation that on 19th April

2003 the deceased fell off from a passenger train while travelling from Udhna to Billimora in the State of Gujarat. The deceased fell off near Railway Gate No.130 between Maroli and Navsari Railway Stations at about 7.00 a.m.. It is pertinent to note that Railway Stations are in Gujarat State. The deceased was taken to Civil Hospital, Navsari but unfortunately expired.

2. An application presented on 15th April 2004 before Railway Claims Tribunal, Mumbai was returned for filing to an appropriate bench as in the opinion of the Additional Registrar, Railway Claims Tribunal, Mumbai, had no territorial jurisdiction to entertain and try it.

3. In accordance with rules, an appeal was filed challenging the order of Additional Registrar, Railway Claims Tribunal, Mumbai dated 6th May 2004 before the appellate authority i.e. the Railway Claims Tribunal, Mumbai. By the impugned order even the said appeal has been dismissed.

4. Although, the larger issue of validity rules of territorial jurisdiction is raised in this petition, in our view, the same need not be decided in this case. We leave the issue open

for decision in an appropriate case.

5. It is not disputed before us that all the petitioners are residing in Gujarat State. The accident in question also took place in Gujarat. The journey was between two stations in that State. The cause of action has admittedly arisen there within the said State. In the facts and circumstances of the present case, we are of the view that the Railway Claims Tribunal, Mumbai was right in directing the petitioners to present the claim application before the appropriate bench in that State.

6. When this matter was placed before us, we issued notice to the respondents (Union of India and Western Railways) for the limited purpose of ascertaining whether the Railway Claims Tribunal at Ahamedabad is functioning and the posts of Presiding Officers therein are vacant or filled up.

7. Mr.Suresh Kumar appeared pursuant to notice on 14th December 2004 and sought time for taking instructions. Today, when this matter appeared before us, Mr.Suresh Kumar made a statement that the Tribunal at Ahamedabad is functional and the

posts of Presiding Officers have been duly filled up. The apprehension of learned counsel for petitioners that the Railway Claims Tribunal, at Ahamedabad is not functioning is thus not well founded and mis placed.

8. In the facts and circumstances of present case we are of the view that the order of Railway Claims Tribunal, Mumbai on the issue of territorial jurisdiction need not be interfered with in our writ jurisdiction. Petition is, therefore, dismissed. However, we direct the Additional Registrar, Railway Claims Tribunal, Mumbai Bench to dispatch papers and proceedings of the claim application filed by the petitioners for compensation u/s 124-A on 15th April 2004 to the Railway Claims Tribunal, Ahamedabad. The Additional Registrar shall forward the application and connected papers within a period of two weeks from the date of receipt of a copy of this order.

9. Needless to observe that we have not expressed any opinion on the merits of the controversy and all pleas are open in that behalf.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)